

The following is an excerpt from the

WASHINGTON STATE

FAMILY LAW GUARDIAN AD LITEM

GUIDEBOOK

It was created by the Washington State Administrative Office of the Courts
in 2008, and is available on line.

Connecticut was expressly granted permission to use whatever parts we wished
for this particular training.

[www.kcba.org/CLE/Title26GALDraft.pdf]

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For the most part, we have copied parts that are not dependent on any particular
state law. However, a few sections do have cites to the Washington statutes or
rules. Rather than hack those sections up, we left them intact.

You all would obviously have to rely on the Connecticut laws, procedures, rules
and practices!

CHAPTER 11

PERSONAL SAFETY

PERSONAL SAFETY

Submitted by Joan Middleton and Jean Cotton

I. INTRODUCTION

The nature of the situation that has caused the Court to appoint a guardian ad litem (GAL) should alert every guardian ad litem to be prepared for and minimize situations that may arise that pose danger to them, to their employees and co-workers, and to those with whom they come in contact in the performance of their duties.

As a guardian ad litem, you will likely be dealing with families in high-conflict family law matters. At best, these families are going to be under extraordinary stress and anxiety. At worst, they may have issues associated with mental health, physical health, chemical dependency and substance abuse, alcohol abuse, physical or sexual abuse, emotional abuse, domestic violence, financial difficulties, intimacy, fear of the Court system, and miscellaneous baggage from past experiences. It is highly unlikely that only one of these issues or similar difficulties may be facing these individuals – more often the case will involve a combination of the above as well as issues not listed here. In other words, it should not be surprising to you that those involved in the case with whom you will be having contact may not be at their best.

While bearing the above in mind, you must remember that you not only have a job to do but that your personal safety as well as those around you must be at the forefront of your thoughts at all times.

What follows are suggestions to help you place yourself in the best possible position to avoid someone getting hurt. These suggestions are not intended to be an all inclusive list of things to do but rather an overview of tools available to help you assure a safe and healthy outcome for all concerned.

II. GENERAL SUGGESTIONS TO KEEP IN MIND

Always be alert to your surroundings and what is going on around you!

- If you are walking down the street, notice what is going on around you. It's easy. When walking past a window, you can observe reflections in the glass. Notice if someone stops each time you do or if they turn every corner you do. Listen for sounds coming from behind you, such as footsteps or breathing. If someone is close behind you, turn and give them a glance to see who it is.
- If you carry a purse, hold it close to the front of your body and keep it closed – fastened or zipped if possible. For men, carry your wallet in your front pant pocket or in a buttoned rear pocket. You may want to wear a waist pouch instead of a handbag if you are in an unfamiliar neighborhood. Some people use small backpacks as purses, too. If

so, make sure all the zippers are closed and the pack is securely on your back. No one will be able to grab it and run away.

- If you can carry your keys in your hands, position the keys between your fingers so that you could use them as a defensive weapon to jab an attacker if possible. If you have a keyless entry system for your car, you may want to carry your car keys in your pocket. Remember that your car keys with a keyless entry system all have a small red panic button. If you press this button either on purpose or by accident, your car will make loud noises if you are in the vicinity. The lights may switch on and off, depending on your car model. To deactivate the panic button, you need to press it again.
- Avoid talking on your cell phone (unless you're calling 911) – it's too easy to become distracted by a conversation and miss the stalker behind you. Pretending to talk on your cell can, however, be a deterrent to an attack as the attacker often does not want you to be able to notify anyone that there is a problem or have you be able to give any kind of a description of the attacker to the person they think may be on the other end of your call.
- If you must use your cell phone in your car, get a Blue Tooth system for hands free phone use, if possible. It is not safe to drive your car while holding your cell phone. If you must use your cell phone while driving, a hands free system should be utilized, if possible. One with voice activation for calls is the safest system. The microphone and speakers are installed in your dashboard or on your visor above the drivers' seat. Newer model cars are now sold with this new technology but you can also buy retrofit kits at your favorite electronics store or you can shop online.
- Avoid being alone after dark if possible. If you have to walk outside, especially in an unfamiliar neighborhood or other place you don't know well, stay in well-lit areas as much as possible and where there are other people around (unless the other people are obviously not upstanding citizens). Carrying a flashlight or whistle are also good ideas.
- Never, ever visit a residence or meet a person you know little about at night – especially if you are going to be alone. You might want to have your first interview during the day either at your office (if you have one) or at a neutral location. You can meet at a court house where there may be security screening. You can also consider meeting in a public library or at a police station if a community resource room is available. Churches sometimes have rooms or empty offices available for community use.
- If you must conduct a home visit or meet with an interviewee away from your office, check out the location of the home ahead of time.
 - Drive by the address before you actually conduct the visit so that you know where it is located, what the neighborhood looks like, what cars should be in the driveway (and what cars should not), and whether you need to take any unusual or special precautions.

- Carefully map your travel to the location so that you do not get lost. Always carry a good road map with you or have a GPS navigation system in your car. There are portable systems now available for reasonable prices at electronics stores or online. This is a business expense well worth making.
- If the residence is in a location that is considered a high-crime neighborhood or you just feel unsafe, have someone go with you that can stay in the car and observe for you OR just don't conduct the meeting at that location – period!
- If there are allegations of methamphetamine use or manufacturing in the home, do not do a home visit. These substances are extremely flammable and are bio-hazards – avoid them whenever possible. Remember that law enforcement will wear hazardous materials suits and protective clothing when visiting these locations. Methamphetamine manufacturing and use is extremely dangerous to you and to the environment. These toxic materials must be disposed of properly.
- Be sure someone knows where you are at all times. You can let this person (we refer to this person as your secretary) know when you arrive at the home; set a prearranged time for either your secretary to call you or for you to call the secretary if the appointment is more than the time you anticipated; let your secretary know when you have left the appointment and what to do if you don't call at the prearranged time or within some other time frame.
- Keep in mind that many home visits are in the evenings and on Saturdays. That's when children are home from school and when adults are generally home from work, unless they work non-traditional hours. If you don't have a secretary or work partner in the evening, you may have to ask a friend or family member to go with you and they should sit in the car and wait for you. Establish a protocol for leaving the address of where you are going when you go out for a home visit regardless of whether it is a day or evening one. For example, if your visit is during the day, tell your co-worker what case you are on and leave important file information on your desk. If you are ever in a compromised position, you can tell the angry person that you are expected at a certain time and your location is already known. Never leave a home visit to go elsewhere with a party without first notifying someone so that you can be found if something happens.
- You may also consider meeting with a child privately at school. This may or may not require obtaining permission from the parent(s) and/or the school. Very often, guidance counselors will provide a meeting room for you during the school day. This depends on the age of the child and whether they are receptive to this idea. Some children may be embarrassed by having a GAL show up for a school meeting. Children don't want to stand out or be different from their peers.
- Keep your cell phone handy during the appointment – perhaps in a jacket pocket. Some phones have 1 button dialing of preassigned numbers – others use voice

cues – or just pre-dial and have it ready to press and send a message in an emergency.

- If the meeting is not at a home, but simply at a public location – checkout various locations that might be safe. Many local libraries have small meeting/reading rooms that are available to the public for their use and that are enclosed in Plexiglas so that you are visible at all times. Restaurants can be a good location but do not offer much privacy except in the corners and that is not a safe place to be. Many courthouses have witness interview rooms that could be reserved. Also, many courthouses have law libraries where you may find some private space or research rooms. Sometimes churches and police offices will provide a meeting space for members of the public as a community service. Check out as many possibilities as you can so that you always have an option available to you.
- Never accept any food or drink offered to you during a home visit. A polite 'no thank you' should be sufficient.
- If you are concerned about safety and behaviors of a party, you can also arrange to meet a party at a convenience store in front of the video surveillance system. Some high-conflict cases do exchanges at convenience stores for just this reason. A security video exists of the event as the child is being passed from one party to the other.
- **Wear comfortable shoes and clothing – you may need to move quickly to get out of a dangerous situation!**
 - Avoid wearing high heels or slick soled shoes if possible. Unless you are an excellent runner in such shoes, they will not facilitate a prompt withdrawal from danger. On the other hand, if you find yourself in heels, there are things you can do to convert them from a handicap to a protective device. A self-defense course can teach you how to do this.
 - Tight dresses, skirts, or slacks can also problematic but so can overly flowing dresses and wide-legged slacks. Think about what you wear and whether it will help or hinder you in an emergency situation.
 - You should dress in a way that your clients can be comfortable with you. For example, if you are meeting a child, a business suit might be too formal. Nice jeans or casual wear with a sweater over a nice shirt or blouse may be calming to them and comfortable for you.
- **Avoid carrying files and other unnecessary articles that will slow you down!**
 - Some suggest not even carrying a purse, but sometimes a purse can be a nice weapon if you need to strike at an attacker so that you can get away. If you do carry a purse, keep as little personal or valuable contents as possible in it that

could be used to discover where you live or to steal or that could result in identify theft

- A waist pouch with a small flashlight, a pen, your cell phone, a small wallet and a whistle can be helpful to have. Some people carry a small Swiss Army knife, not as a weapon, but because the small tools can be helpful if you are in a rural remote area. You may want to keep your cell phone in an easily accessible pocket. Remember that you may lose cell phone service in certain areas. Not all cell phones have complete coverage in all locations. If this is the case, know where the local pay phones are located along the way.
- **Take a self-defense course if you can.**
 - Many larger communities offer self-defense training through the Y or a community center. If there is no such place in your community, talk to the local law enforcement agencies to see if they can teach you how to protect yourself.
- **Never EVER give out personal information about yourself or your family to the people you are investigating or any other persons involved in your investigation!**
 - Don't tell them your home address or telephone number, the names of your family members or partner, where you shop or go to church, where you workout or go to school, etc. If you work out of your home, don't tell anyone involved in the case that you do.
- **Never make a home visit by yourself in cases involving allegations of illegal activity, substance abuse, or mental health concerns!**
 - If there are allegations of illegal activity or substance abuse or dangerous mental health issues, exercise EXTREME CAUTION. Ask one of the attorneys of record to be present, take an 'assistant' with you, or contact local law enforcement and request a civil assist during the visit. Otherwise, simply arrange for the meeting elsewhere.
 - Advise the court when your concern for safety may compromise the investigation. You can always note a motion and ask for court instruction regarding an investigation where there are security concerns that put you outside of your comfort zone. Do not hesitate to seek court instruction if needed. Judges and Commissioners know these cases can be challenging. They have security concerns of their own and will be understanding of yours.
 - Know when to identify safety concerns to the court when they arise. This might be in cases involving suspected drug activity or suspected mental health issues. You can always recommend an enhanced security presence in court, especially if your local court house does not have a security screening system. Cases

involving allegations of domestic violence or suspected domestic violence should be mentioned to the court.

- Park your car so that you are positioned to drive away quickly, if necessary. Do not allow another car to block you in the driveway. Park on the road in front of the home, if possible. If you are visiting a home on a dead end, always park your car so that you are facing the way out to the main road.
- **Meet children in an environment that will make them comfortable.**
 - Some GALs have a special, child-friendly room at their office where they can sit at a child-sized table to meet with children while playing or coloring with the child(ren) to put the child(ren) at ease. If you don't have one of these kinds of rooms, check with other local GALs to see if they do and perhaps you can arrange to use their room from time to time for free or pay a small fee to have access to it on a more frequent basis.
 - If the parent(s) agree, meeting a child at McDonalds or Burger King or a similar fun/relaxing public place can often assist in building a rapport with the child.
 - Many schools will allow you to meet with a child at the school using a counselor's office or a private meeting room.
 - Local public libraries often have meeting rooms available that might be comfortable for the child.
 - Try to meet with children without their parents standing by in the same room or noticeably nearby. If you cannot avoid having a parent bring the child to you and if both parents have visitation rights, then be sure to have at least one visit with the child where the other parent provides the transportation. This may reveal whether either or both parents are coaching the child prior to the meetings with you. It's a good idea to observe the child with both parents, if possible, and spend an equal amount of time with each parent-child observation. You can ask to have some private moments with the child in the parents' home(s) by sitting in the living room and asking the parent to go to another part of the house out of hearing range. If you go to a child's bedroom, do not close the door. You can ask the child to show you his or her room but then go to a more public part of the home for conversation.
 - Do not provide transportation to any party or child. Avoid being in a position where you are transporting the child to/from meetings with you. Transporting a child could put you in a position of liability should an injury occur or expose you to other possible negative consequences.

III. YOUR WORKPLACE

You have to work from somewhere, but with each such scenario there can and should be a plan on how to be safe and secure. Following are some suggestions for keeping your workplace a safe, well-organized location for you and all with whom you are in contact.

A. The Office Environment

If you are an attorney-GAL or if you work with a group of non-attorney-GALs, the odds are that you work in an office environment with or without other attorneys or staff. You may office share with another attorney. You may have your own staff or work alone in a professional suite of some type. You may be one of several attorneys and staff members in a large firm. In any event, if you are working in an office outside of your home, here are some things you can do to protect yourself and those with whom you work.

You may also have a 'virtual office' which is a popular way for attorneys and other professionals to minimize overhead office costs in urban areas. With a 'virtual office', the office manager will handle your mail, phone and faxes. You are there by appointment only and can use the conference rooms on a hourly basis. They provide administrative assistance that you can use on an 'as needed' basis. These office spaces are often listed in the yellow pages as Executive Office Suites.

You may also be able to speak with local attorneys about using their firm's conference room for your meetings. Very often, attorneys may extend this favor for a small fee or free as a community service. To avoid a potential conflict of interest, if the attorney whose office you are considering using is involved in any case with you, first obtain approval from everyone involved in such cases prior to arranging to use the office for your meeting.

1. Whenever possible, schedule appointments to meet with the parties and any others involved in your investigation in your office when someone else is nearby; i.e. your secretary or paralegal or another co-worker of some kind. Schedule these appointments during the regular work day rather than after hours.
2. Have an alert system pre-arranged in your office that will allow you to notify someone that there is a problem and that either assistance is required (they need to come into your office) or that law enforcement needs to be called. This can be a buzz word or phrase; it can be an intercom button, it can be a pre-assigned button on your phone to dial '911', it can be a 'panic button' located under your desk that can be activated with or without use of your hands, or some other system. If your secretary or co-worker that is nearby hears the buzz word or is otherwise alerted that there is a problem, that person should already be prepared to take the next step and do so without hesitation.
3. Remind your staff and co-workers what the pre-arranged alert system is from time to time. Conduct an orientation for new staff so that they know what the system is and how to respond. Consult with other GALs to see what their system is and adjust yours when new, better ideas are brought to your attention.

4. Arrange the office or space where you are meeting with the interviewee so that office supplies that could be used as a weapon are not easily accessible to the interviewee; i.e. scissors, letter openers, etc.
5. Minimize the opportunity to find yourself trapped or cornered without an easy exit. Arrange chairs so that anyone who wishes to leave may do so without being trapped from direct access to the door.
6. If you are going to keep a weapon in your office for self-protection, be properly trained in its use and have it readily accessible to you. Keeping it in a locked drawer will do you no good – an attacker is not going to wait for you to fumble with a key to open the drawer and retrieve your weapon! If you don't know how to properly use a weapon or feel uncomfortable with one, then don't have one! **DON'T TRY TO BE A HERO** – it will probably backfire and could increase the potential for danger or harm to you and others. Focus on defensive moves that provide an opportunity to depart the scene and the situation quickly! If you must use force, use only as much as is necessary to get out of the situation – don't try to control the situation, you usually cannot. If the interviewee tells you they have a weapon, assume it to be true and resort to your pre-arranged safety plan and avoid a confrontation.
7. If a dangerous situation has occurred, once the danger is over – if it is safe to do so, try to observe in what direction the person went and whether a vehicle was involved. Getting a vehicle description as well as an accurate description of the perpetrator is extremely valuable. Immediately sit down as soon as possible and write as much as you can remember before discussing it with anyone! Discussing the matter may alter your memories and thus make them less reliable. Have each member of your staff do the same thing. When the police arrive, you will have the best possible, unadulterated information to give them that will also assist them in their duties.

B. Working Out of a Home

Many non-attorney GALs, in particular, work out of their home. These individuals conduct much of their business over the internet and via telephone. The question of having to meet with persons involved in your investigation in addition to protecting the identity of your location at home becomes an issue for the GAL with a home-based business to address.

1. Have a business line installed in your home office – the address published in the directory for this line (if you use yellow pages) should simply be a post office box and not a street address. Most telephone directories will publish a number without an address – some charge an extra fee to keep the physical address confidential. It's worth it to keep your physical address private. This is part of your cost of doing business and lets you

avoid compromising your personal safety by spending the extra money for address confidentiality.

2. Always use caller ID and block your identity with outgoing calls when appropriate such as when you use a personal cell phone to place the call. If you intend to make a lot of calls from a cell phone, have a second phone just for business purposes and keep the address unpublished. Assuming you have high speed Internet in your home or office, you can also have a VOIP phone line. This is a Voice Over Internet Phone and there are popular providers such as Vonage. You pay a flat fee for unlimited long distance and you can choose your outbound phone number identification including any area code you want to use. Some GALs have a business line, 1 or 2 cell phones plus VOIP which you can use for outbound calls without location identification. This is a good way to keep your location confidential. The added bonus is you keep your business long distance bills down, too.
3. Never, ever give out your home address to an individual involved in a case.
4. Never, ever meet with anyone involved in the case at your home. Many local libraries have small meeting/reading rooms that are available to the public for their use and that are enclosed in Plexiglas so that you are visible at all times. Restaurants can be a good location but do not offer much privacy except in the corners and that is not a safe place to be. Many courthouses and sometimes police offices have witness interview rooms that could be reserved. Some churches may also provide public meeting rooms as a community service. But, if it is your church, do not tell your client. Your private life is to be kept private at all times. Check out as many possibilities as you can so that you always have an option available to you.
5. Arrange the office or space where you are meeting with the interviewee so that office supplies that could be used as a weapon are not easily accessible to the interviewee; i.e. scissors, letter openers, etc.
6. Minimize the opportunity to find yourself trapped or cornered without an easy exit.
7. If you are going to keep a weapon in your office for self-protection, be properly trained in its use and have it readily accessible to you. Keeping it in a locked drawer will do you no good – an attacker is not going to wait for you to fumble with a key to open the drawer and retrieve your weapon! If you don't know how to properly use a weapon or feel uncomfortable with one, then don't have one! DON'T TRY TO BE A HERO – it will probably backfire and could increase the potential for danger or harm to you and others. Focus on defensive moves that provide an opportunity to depart the scene and the situation quickly! If you must use force, use only as much as is necessary to get out of

the situation – don't try to control the situation, you usually cannot. If the interviewee tells you they have a weapon, assume it to be true and resort to your pre-arranged safety plan and avoid a confrontation.

8. If a dangerous situation has occurred, once the danger is over – if it is safe to do so, try to observe in what direction the person went and whether a vehicle was involved. Getting a vehicle description as well as an accurate description of the perpetrator is extremely valuable. Immediately sit down as soon as possible and write as much as you can remember before discussing it with anyone! Discussing the matter may alter your memories and thus make them less reliable. Have each member of your staff do the same thing. When the police arrive, you will have the best possible, unadulterated information to give them that will also assist them in their duties.

9. Regarding weapons, when you are doing a home visit, always assume there is a gun in the home. Many Americans exercise their Second Amendment right to bear arms. Perhaps you keep a gun in your own home or office. Some law enforcement agencies indicate 50% of all American homes have guns. Additionally, many people have permits to carry concealed weapons. Even if they don't have permits to do so, some people carry guns illegally either on their person or in their cars. If you assume there is a gun in a home when you are doing a home visit, then be mindful of the fact that you don't know where it is but they do.

IV. TOOLS FOR COMMUNICATING WITHOUT NEGATIVE RESULTS

The way in which you explain your role in the legal proceedings and the way in which you present yourself to those involved in your investigation can and often will set the tone for how those meeting with you will react.

Communicate Effectively

Learn to clear up confusion and frustration before it develops into a hostile encounter.

1. Take time early on to explain that the judge is the decision-maker, not you. Explain that your report will be only one piece of evidence the judge will be considering before making his or her ultimate ruling. This alone can often diffuse tension and misapprehension before it has time to develop into anger and frustration.

2. Define your role and abilities. Explain that just because one county may expect one thing from its GALs, this may not be the same set of expectations in your county. For example, some courts expect GALs to conduct home visits in all cases, whereas other counties only allow home visits on a case by case basis based on very limited circumstances. Knowing

what the playground rules are in advance can eliminate fears based on ignorance or speculation and therefore reduce anxiety and tension.

3. Explain how your services are going to be paid for up front. Some counties have no program for guaranteeing payment of the GAL's fees and costs by the county whereas others have extensive programs. Some GAL cases are privately paid by the parties without the county guaranteeing payment and in such cases, a sizeable retainer is required up front. Still other cases are assigned to persons who have agreed to charge nothing for their services.

4. If the court has authorized you to conduct random drug testing, explain what your standard procedures are and what is expected from the individuals involved. Generally, GALs will refer clients to drug testing labs where Certified Drug Professionals are employed. They oversee the collection of the specimens which are then sent to a lab for evaluation with the results mailed or faxed to the GAL, the court and counsel. The client must sign a release with the testing center to have lab results sent. Do not republish drug test results by filing them or telling others. You may be violating federal law. Become informed about HIPAA and privacy rights regarding the transmission of medical information.

5. Listen carefully and patiently whenever possible. Just knowing that someone is really listening to them will often ease a tense, frustrated, or confused individual and open the door to a more meaningful exchange of information.

6. Redirect responses to the question when necessary rather than allowing a person to ramble or become agitated. But in redirecting, be courteous and understanding rather than terse and rigid.

7. Ask open ended questions rather than leading ones. If the response is difficult to follow, paraphrase what you think you are hearing to be sure you are in sync with the speaker.

8. Demonstrate empathy. If you let the frustrated person know you understand that they are frustrated and that you care about how they feel, that you want to help - the frustration will often dissipate and the person will relax.

9. Review and clarify whenever you are unsure about what the person wants or what they are trying to say.

Diffuse Anger

1. If tempers flare, the best response is often saying nothing – simply listen with a non-aggressive affect. Let the person vent appropriately. This will often diffuse the anger and

allow a meaningful exchange to follow. If the anger continues to build, it may be best to end the meeting and try again another day.

2. When people you are dealing with appear angry, remember that they are more likely to be angry with the situation rather than with you – it is not normally a personal attack. Avoid contributing to their stress and your own by getting defensive or taking their anger personally. Be objective and remain the calm force in the room.

3. If you make a mistake, admit it. An honest acknowledgement that you made an error can calm an angry person. Remember, however, to choose your words carefully because you will probably be held accountable for them.

4. Let the angry person know that you are recording their concerns or complaints in writing. This does not indicate that you are in agreement with what they are saying, but it does show that you are taking what they say seriously rather than viewing it as unimportant or dismissing it. Dismissing their concerns suggests the speaker is being dismissed as well and can create hostility.

5. You do not have to tolerate personal attacks on who you are or who you are perceived to be. If the interviewee resorts to verbal attacks, terminate the meeting and reschedule for another day if possible. Explain that you have a job to do; that you want to help but that until the tone is more calm, communication cannot be effective. If the situation escalates rather than diminishes, and IF YOU FEEL YOU ARE IN IMMINENT PHYSICAL DANGER, remove yourself from the situation immediately. Activate your safety plan and call 911 if necessary.

When Violence Occurs

1. Try to remain calm and remember your safety plan. Decide on a strategy that includes a physical escape route, if possible. Watch for opportunities to maneuver yourself into a physically advantageous or benign position.

2. **DON'T BE A HERO!** Do not physically or verbally confront the violent person unless absolutely necessary to protect yourself from injury. Focus on defensive moves that could open up an escape route for yourself.

3. If you must use force, use only as much as is necessary to control the situation and establish safety for yourself and innocent bystanders. Your reaction should be one that a reasonable, prudent professional who deals regularly with the public would take.

4. If you are not trained in the use of deadly weapons or deadly force and competent to exercise its use, don't use either! There are pros and cons to carrying guns or other

deadly weapons. Consider these carefully before bringing one into your workplace situation. If you choose to carry a weapon, know where and when it is allowed and the laws that govern its use.

5. After the violent person has departed, make a written record of all facts you can recall including a description of the person, the situation, which way they went when they left, what mode of transportation they were using and a description of it. In the case of an assault, robbery, or other dangerous circumstance, lock the doors after the person has left to prevent their re-entry.

Behavioral Cues for Identifying Violence

Anger responses vary as widely as any other emotional or personality traits. There is no way to determine with any degree of certainty whether a disgruntled person's anger will escalate into violence. When judging a person's violence potential, watch for verbal and non-verbal signs. Are the words, vocal tones, and body language logical and consistent or does the individual appear to be erratic and in danger of losing control?

The following nonverbal clues should be viewed as indicators not absolutes:

FACIAL EXPRESSIONS

- Jaws tense, clenched teeth, biting lip, pursed or quivering lips
- Frowning
- Eye contact vigilant, staring with no break, dilated pupils
- Skin flushed red or blanched looking (more obvious with lighter skin tones)
- Facial sweating, especially if it is not warm in the room
- Pulsing carotid artery or temple blood vessels
- Lips drawn tight or showing teeth (not smiling)

BREATHING PATTERN CHANGES

- Breathing becomes shallow or rapid

BODY LANGUAGE

- Attitude changes
- Squaring off – facing you in a confrontational style
- Tensing that appears to be preparation for action
- Restlessness
- Pacing
- Becoming withdrawn or 'stony'
- Head held back – a sign of aggression
- Arms crossed tightly high across chest

EXTREMITIES

- Hands clenching or signs of being tensed or wringed
- White knuckles
- Noticeable shift from relaxed to tense or tight position
- Hiding hands
- Pounding fists, stomping feet, kicking at objects

V. DEALING WITH ANIMALS

If you are familiar with animals, you will likely know how to react when coming across an unfamiliar animal during your investigation. Determining whether the animal is friendly or not may be more important than you think. The most common situation you will likely encounter is having an encounter with an unfamiliar dog. Following are some suggestions for what to do and what not to do in such a situation:

- **STAY CALM!!** This may be difficult but how you react initially will often determine the outcome of the situation. Be confident, steady, and firm. It must appear to the animal that you are the one in control; not the animal.
- Don't turn and run – no matter how much you want to. Running may indicate to the animal that you are weak and vulnerable; something that wants to be conquered. Some dogs may also consider this a playful act and an invitation to engage in play or a chase.
- Don't flail your arms and legs about as this may heighten the animal's excitement and cause them to bite.
- Don't flail to the ground and curl up into the fetal position for protection. Playing opossum with a dog will not work. The dog may attack you on the ground and you will be at a greater disadvantage than if you were upright and erect.
- Don't yell and scream at the dog – emotional tones and volume may heighten the animal's excitement and prompt an attack.
- Don't move suddenly or act hesitant as this may indicate that you are afraid and weak resulting in an attack.
- Don't extend your hand out to the dog – not all dogs understand this as a friendly gesture.
- Stand firm and steady – fight the desire to run.
- Keep your hands in close to your body. Don't give the animal any distractions like moving hands, fingers, or specific focal points to attack.
- Move slowly and calmly. This may help relax the stressful situation for both you and the animal.
- Back out of the situation facing the dog. Maintain control and confidence.
- Tell the dog "NO" or "STOP" or "HALT" in a strong, confident, low pitched voice.

If a dog does attack you, kick, hit, or knee the soft parts of the dog's body. Keep fingers rolled under and in a fist if possible and keep fighting. After the attack, call 911 for assistance.

As a related issue, when you are doing a home visit, look at the pets. Are they well-nourished and clean? Does the house smell like animal waste? Ask a child about his or her pets. Do they have any pets, where are they, what happened to them? How a family treats a pet may be helpful information to you in your investigation. Animal abuse is marker behavior and you should be aware of how people treat their animals. Also, there are often many dogs in homes where drug use is an allegation. Be vigilant and cautious if you enter a home with 'too many' pets. Although you are court appointed to work for the best interests of a child, that does not mean you can not call animal control as a concerned citizen if you see animal abuse or neglect. Furthermore, a neglected or abused animal can be dangerous to you or the children and adults in the home.

VI. SUMMARY

You need to be at your best. When working with families under stress, at a minimum, be unfailingly polite, be kind, look and listen, do not be judgmental, and be respectful.

CHAPTER 12

CULTURAL COMPETENCY

CULTURAL COMPETENCE

Submitted by Padmaja Akkaraju Ph. D.

INTRODUCTION

The Guardians ad Litem (GAL) will work with professionals and families from diverse cultural and socio-economic backgrounds. Their responsibilities span over a variety of functional areas such as investigation; interviewing; report writing; testifying in the court; communicating with children and family members; collaborating with other professionals involved in the case; assisting the court in decision making including specific recommendations for court action based on the findings of the interviews and independent investigation.

The following awareness, knowledge and skills enable the GALs to perform their duties effectively:

- ◆ knowledge of their cultural heritage and upbringing and how it shaped their world views and personal biases
- ◆ willingness to challenge and transform their world views and biases with the belief that change is necessary and positive (Pope and Reynolds, 1997)
- ◆ awareness of the impact of their worldviews and behavior on their perception of people with different cultural backgrounds
- ◆ actively seek out educational experiences to increase knowledge of diverse cultures in the contexts of history (trail of tears: American Indians; slavery, Asian American immigration; GI Bill; etc.) and the socioeconomic (poverty, gentrification, etc.) status
- ◆ recognize the role of a person's identity (race, ethnicity, religion, sexual orientation, ability, age, etc.) and socio-economic status in his or her experiences, family structure, functioning and child rearing practices
- ◆ recognize the institutional barriers (such as lack of health care; lack of legal sanction for second parent adoption by same-sex parents) in the society and how they may limit access to opportunities to minority populations which in turn may affect their family structure and child rearing practices; behavior and functioning
- ◆ recognize the impact of racism on the domestic violence
- ◆ mindful of personal biases and power hierarchies in their working relationships with children and families
- ◆ acquire the ability to go out of personal comfort zone in communication and developing trust-based working relationships with children, families, and professionals involved in the case while fully acknowledging their identity attributes and cultural differences
- ◆ recognize the impact of Indian Child Welfare Act and the Multicultural Placement Act on placement decisions and acquire the ability to advocate for the children while assisting the court in decision making

- ♦ acquire the ability to make decisions and administer interventions that support the integrity and strengths of the culture of the child and the parties (McPhatter, 1997) while being mindful that each case is unique

The above mentioned awareness, knowledge and abilities are indicative of the GALs' cultural competence. Culture is an integration of people's history, customs, communications, moral values, philosophies, and myths that may be transmitted from generation to generation as well as identity attributes that may include gender, race, ethnicity, language, religion, sexual orientation and ability. Culture is a way of living "informed by the historical, economic, ecological, and political forces" on a group of people (American Psychological Association, n.d.). We develop our thinking patterns, values and behaviors from our culture and view the world through our cultural lens. We learn about culturally different people through the social conditioning imposed by the family and the society (educational system, media, etc.). Our culture becomes the frame of reference when we interact with people thus affecting the way we may interpret the meaning of their values and behaviors.

Cultural competence is the acquisition of congruent knowledge, attitudes, behaviors (Cross, Bazron, Dennis, & Isaacs, 1989; Sue, 2001) that enables us to think, act, and interact with people from different cultural backgrounds with an open-mind while respecting their dignity and recognizing the power dynamics. At the organizational level, cultural competence enables us to actively advocate for institutional policies and practices that are equitable and responsive to all people.

Cultural Competence Attainment

Derald Wing Sue, an eminent psychologist and a leading researcher on cultural competence, posits that the term, acquisition, in the definition of cultural competence indicates that cultural competence is the "process of becoming" (Sue, 2001). Bryant and Peters (2001) point out that developing competence in cross-cultural lawyering is a lifelong process. To begin the process, the GALs need to acknowledge and accept the role culture plays in shaping their worldviews and perceptions of people from different backgrounds. Self-awareness is the key to cultural competence and enables the GALs to be mindful of possible biases in performing their diverse responsibilities.

Need for culturally competent practice

The primary responsibility of the GALs' is to work and advocate on behalf of children and represent their best interest to assist the court in the decision making process. GALs can accomplish their purpose only by starting their journey toward achieving cultural competence. The cost of cultural incompetence is both institutional and personal. Cultural incompetence perpetuates the prevalent societal inequities and does nothing to help the neediest children and their families. Despite having lofty goals, culturally incompetent individuals and organizations provide disservice to children, too often by devaluing their families and communities into which they are born (Green and Appell, 2006). Cultural competence makes us socially responsive and responsible human beings with an enlightened consciousness. McPhatter (1997) says:

The real payoff is the realization that we are more effective in our efforts and more energized toward goal attainment when we are not constantly trying to protect our fears, trying to say or do the politically correct thing, and trying to avoid the most frightening prospect-being thought of as a bigot. We begin to develop a foundation of trust at the core of which is equality, resulting in more creative solutions to difficult problems. (p.275)

VOCABULARY

It is critical to learn the definitions of terms related to multiculturalism and social justice since people tend to confuse and misuse them.

Race: Race is the category to which others assign individuals on the basis of physical characteristics, such as skin color or hair type, and the generalizations and stereotypes made as a result. Thus, "people are treated or studied as though they belong to biologically defined racial groups on the basis of such characteristics" (Helms & Talleyrand, 1997)

Ethnicity: Ethnicity is an identity attribute that a group of people having a common ancestral origin may share on the basis of their shared history, regional, linguistic and cultural characteristics.

Sex: Sex refers to the genetic and anatomical characteristics which define humans as female or male. These biological characteristics tend to differentiate humans as males and females but they are not mutually exclusive since there are people who possess both

Gender: Gender refers to culturally based expectations of the roles and behaviors of men and women. The term distinguishes the socially constructed identity from the biologically determined aspects of being male and female.

Gender identity: The gender that one believes oneself to be. An individual's innermost sense of self as male or female, as lying somewhere between these two genders, or as lying somewhere outside gender lines altogether.

Transgender: Refers to those whose gender expression and/or anatomies may not confirm to predominant gender roles. Transgender is a broad term that includes transsexuals, cross-dressers, drag queens/kings, and people who do not identify as either of the two sexes as currently defined. When referring to transgender people, use the pronoun they have designated as appropriate, or the one that is consistent with their presentation of themselves.

Pronouns when referring to transgender individuals: Use "ze" to replace he or she and "hir" to replace him or her.

Transsexuals: Transsexuals are individuals who do not identify with their birth-assigned genders and sometimes alter their bodies surgically and/or hormonally.

Minority: A group of people who, because of their physical, cultural characteristics or sexual orientation experience differential and unequal treatment thus becoming objects of collective discrimination.

Majority: Group that holds the balance of social, economic and political power (including the three branches of government: judicial, executive and legislative); controls access to power and privilege and determines which groups will be allowed access to the benefits, privileges and opportunities of the society.

Individualism: Individualism holds that the individual is the primary unit of reality and the ultimate standard of value. Society is a collection of individuals. Values include self-reliance and personal independence.

Collectivism: Collectivism holds that individual is connected to the family and kinship which are the primary units of reality. Values include interdependence, harmony with family and kin as well as with nature. Harmony within the family and nature leads to harmony within the self.

Privilege: Any entitlement, sanction, power, immunity and advantage or right granted or conferred by the dominant group to a person or a group solely by birthright membership in prescribed identities (Black and Stone, 2005).

Oppression: The state of keeping down, making invisible and ignoring of the minority by unjust use of force, authority or the dominant group's norms. Racism, sexism, heterosexism, accentism, ableism are oppression of people based on their race, sex, sexual orientation, language, and disability respectively.

Equity: Equity is about removing institutionalized barriers to provide fair access to opportunities (college education, for example) and privileges (marriage, for example) for all the members of the society.

Multiculturalism: Accepts the existence of multiple worldviews and belief systems, understands behaviors in a social context. As a social movement, multiculturalism includes principles of social justice (Sue, 1999 as cited in Parker and Fukuyama, 2007).

IDENTIFYING THE GAL'S WORLDVIEWS AND PERSONAL BIASES

Identifying the Dominant Culture/Defined Norm

Dominant culture is practiced by the members of the dominant group or the majority who hold the balance of social, economic and political power (including the three branches of government: judicial, executive and legislative). The dominant group controls access to power and privilege and determines which groups will be allowed access to the benefits, privileges and opportunities of the society.

Indicators of dominant culture:

- ◆ Standard of rightness and righteousness

- ♦ Educational system (philosophy, curriculum, teachers, and leaders)
- ♦ Language that everyone must learn
- ♦ Religion and spirituality that are dominant
- ♦ Conscious and unconscious suppression of other cultures
- ♦ The racial and ethnic background, gender, sexual orientation, educational level, class, religion and ability of people who occupy positions of economic and political (governing, judicial, etc.) power

Exercise

Based on the above indicators, identify what is the dominant culture in the United States of America.

Self-exploration exercise

1. Identify your identity attributes: race, class, and gender. When did you become aware of your identity attributes and in what context/situation?
2. Using the dominant culture indicators, identify your membership in dominant or non dominant groups.

	Dominant	Nondominant
Race		
Gender		
Sexual orientation		
Education		
Class		
Religion/Spirituality		
Ability		

3. Read Peggy McIntosh's article, "White privilege: Unpacking the invisible knapsack." Identify your privileges
4. What are your standards for rightness regarding family, relationships, sexuality, child rearing, and spirituality?
5. What are your views about meritocracy and about pulling oneself up by one's bootstraps?
6. How does your culture shape your attitudes, values, biases and assumptions about your work as a GAL and about others who come from a different cultural background?

Cultural bias in the GALs' work

One's good intentions toward others may not always result in outcomes that are free of discrimination. The distinction between intentions and effects is crucial to developing cultural competence (Weng, 2005). Research evidence points out that despite their beliefs about their open-mindedness, people tend to unconsciously harbor prejudice against racially or ethnically different groups that may result in subtle discriminatory behaviors (Ridley, 2005; Weng 2005). Some culturally biased assumptions that are harbored by western trained professionals (Pedersen, 2002) are: (1) measuring people against one "normal" standard of behaviors irrespective their cultural differences; (2) valuing rugged individualism; (3) emphasis on independence while dependency is undesirable or neurotic condition; (4) neglecting client's support system such as extended family members; (5) only "cause and effect" thinking considered as scientific and appropriate; (6) minimization or ignorance of the historical roots of the client's background; (7) focus on changing the individuals, not the system; (8) Assumptions that the professionals and their work are free of cultural biases. Very often the inequities in education, class and power become the invisible barriers in the professional-client interaction.

Avoiding gender, same-sex and transgender biases

Identification of hidden biases creates mindfulness. The following list of questions enable the GALs to make an honest assessment of their sexist and heterosexist attitudes and beliefs:

1. How did your culture play into your understanding of gender?
2. Do you have religious beliefs that guide your values about gender and sexual orientation?
3. What are your views about same-sex and transgender relationships and parenting?
4. Have you interacted with gay/lesbian/bisexual/transgender parents?
5. What are your views about child placement and adoption by same-sex couples or transgender people?

Once the GAL identifies her or his worldviews and biases, she or he needs to make an informed decision about the limits of her or his effectiveness working with same-sex or transgender couples – especially if her or his religious or spiritual beliefs disapprove same-sex relationships.

While working with the same-sex or transgender parents, mindfulness of the role of individual and institutional heterosexism is the key to prevent biases. The following checklist may help the GALs in avoiding the biases:

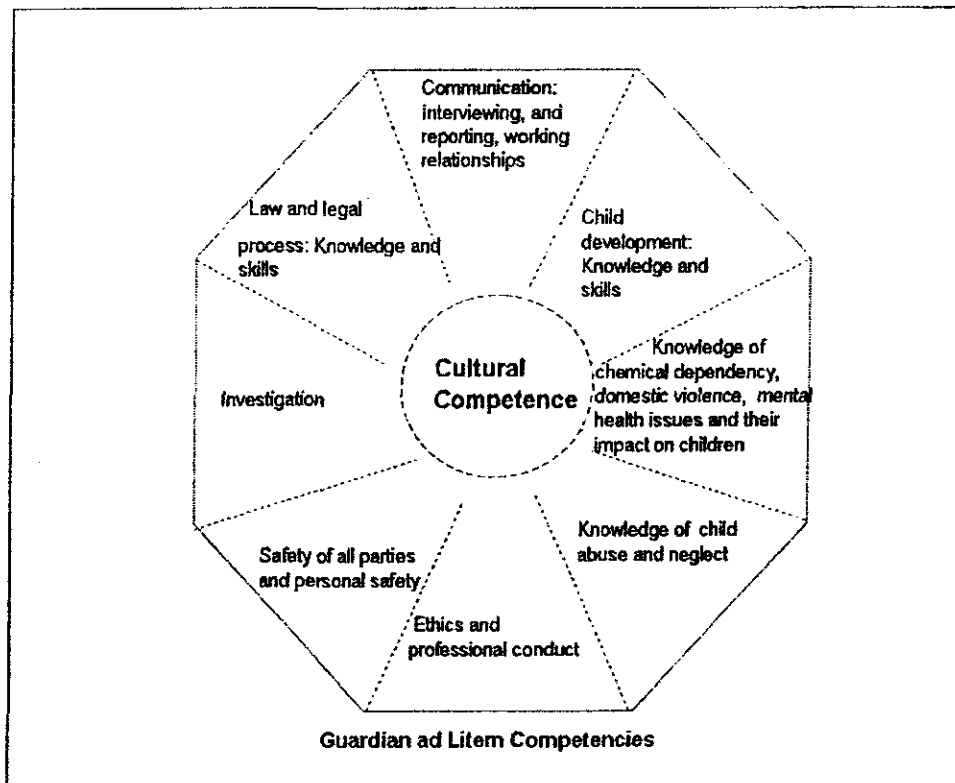
1. Think about the child in context of the family. Same-sex or transgender parents are parents first.
2. Use inclusive language in communication and reporting
3. Increase your knowledge of the same-sex and transgender parents

4. If you have personal biases for whatever reasons, look at the research evidence and listen to the professionals. All the major professional organizations and medical experts support the gay, lesbian and transgender parenting.

BRIDGING THE GAP BETWEEN INTENTIONS AND OUTCOMES

Model for understanding the central role of cultural competence in the GALs' functional responsibilities

Substantial research evidence from various service professions such as counseling (Ridley, 2005), law practice (Bryant and Peters, 2001; Weng, 2004), health care and social work (McPhatter, 1997) points out that cultural competence plays a crucial role in the efficaciousness of the professional. Cultural awareness, knowledge and skills form the core part of a service professional's functioning since people are cultural beings. GALs' cultural competence development influences their effectiveness in all the responsibilities that the GALs undertake in their child advocacy. The following model gives a visual presentation of various functions of the GALs:



The model presented here identifies the central role of cultural competence in achieving the GAL standards. Cultural competence occupies the core or the hub of the model thus signifying that without the development of cultural competence, the GAL standards would fall short of the best practices thus doing disservice to the child and defeating the very purpose of the GALs' work. The GALs' cultural competence development affects how they understand the legal system and practices, observe, interact, communicate, investigate, report to the court and assist the court in making a culturally competent decision that serves the best interests of the child. The model therefore indicates the need for cultural awareness, knowledge and skills in all areas of the GALs' professional performance as discussed in the following sections:

Personal safety assessment

The GALs' assessment of personal safety depends on his or her worldviews and biases which may affect her or his comfort level and the ability to go out of comfort zone while working with people from a different race or sexual orientation. Without achieving some level of cultural competence, any assessment of personal safety made by the GAL would not be valid and reliable thus falling short of the best practice

Communication

The GALs' work involves interviewing the family and others involved in the case; analyzing and reporting the information. Self-awareness including the power hierarchy between the GAL and the family members; knowledge of the cultural background, historical roots of the family and the systemic oppression that may be affecting the family members all required for developing effective communication skills and for building trust-based working relationships.

Cultural competence enables GALs to develop trust-based relationships with family members and professionals involved in the case, and to be mindful of the unconscious cultural biases that may creep into the investigation and to work toward fixing the systematic disparity in services provided to the minority children.

Ethics and Professional Conduct

The GALs need to be cognizant that ethics and standards for professional conduct may have implicit cultural norms and values. In maintaining fairness, the GALs need to be mindful of the reasons, such as racial bias, for the overrepresentation of minority children in the foster care system.

The law and the legal process

The law and the legal process require the GALs to represent the child and assist the court in the decision making process. Cultural competence of the GALs enables them to be sensitive to the autonomy and possible mental trauma of the child during the process, help the court see the child in the context of family and community by "framing and supporting alternative approaches to dispute resolution – non judicial processes that allow children and their families to have an authentic voice in decision making (Olson, 2006 as in Green and Appell, 2006). The GALs need

to see how the laws that are based on individualistic model of rights and responsibilities (Bryant and Koh Peters, 2001) may affect the families that may have collectivist views and behaviors.

Knowledge of child development

Culturally appropriate knowledge of child development needs to include the minority child development and address the cultural differences in child rearing practices and family structures and values. As the UNLV (Green and Appell, 2006) recommendations point out, children must be understood in the context of their families, communities and their historical roots.

Knowledge of child abuse and neglect

Knowledge and analysis of child abuse and neglect need to be free of personal biases against others' cultures and stereotyping. In addition, cultural competence enables the GALs to look at the effect of systemic oppression in the form of inequitable policies and disparate services that they may wish to address at the organizational level. Culturally competent GALs would be able to sort out culture-influenced processes of child rearing from harmful behaviors.

Knowledge of chemical dependency, domestic violence, mental health issues and their impact on children

Cultural knowledge enables the GALs to study how cultural factors as well as systemic oppression are interrelated to the issues of chemical dependency and mental health among the minorities. Knowledge about domestic violence must include contextual factors such as poverty, single parenthood, and histories of previous intimate partner violence, as well as the double bind situation faced by the white women as well as women of color while facing the issue of domestic violence. The double bind situations include the risk of children being placed in foster care because of lack of financial resources if the battered women seek help. In the case of women of color, their responses to violent and abusive behavior may also be influenced by the chronic experiences of racism, and the social contexts in which they live. GALs need to be mindful of the cultural and socioeconomic context of domestic violence and the impact on battered mother and child.

The UNLV children's conference recommendations (Green and Appell, 2006), caution against the lawyers making assumptions of what the children need and want and how best to serve the children because these assumptions may be based on stereotyping or the lawyer's own personal experiences, worldviews and biases. The UNLV recommendations posit that children must be understood in context – as developing human beings with families and complex multiple identities. Cultural competence enables the GALs to be mindful of making assumptions while learning and applying their knowledge of chemical dependency, domestic violence and mental health issues and their impact on children.

Investigation

Cultural competence will enable the GALs to become aware of distractions and biases that might detract them from representing the best interests of the child, and will develop strategies for avoiding them.

The central role of cultural competence thus emphasizes the connection between personal and professional development and makes it imperative that the GALs find ways to address the role of cultural competence in all of their functions

Sorting individual biases, systemic oppression and cultural norms from harmful behavior that impacts children

There is substantial research evidence (Hill, n. d.) that racial bias among the child welfare professionals and the child protective services system results in disparity in services provided to the minorities, especially African Americans, whose children are overrepresented in the foster care system. The minority overrepresentation in the child welfare system results from the cultural insensitivity and biases of workers, policies and institutional racism. Blacks are twice as likely to be investigated for child maltreatment as whites. Most research studies suggest that race alone or race in addition to other factors is strongly related to the higher rates of investigations for the African Americans.

Fontes (2002) reported that in the United States, most child welfare professionals hold a highly individualistic view of child maltreatment by assuming that it is inflicted by parents on their children. Thus they disregard the systemic issues such as child poverty; inadequate housing; poor health care; overcrowded and under funded schools; dangerous neighborhoods and lack of opportunities for parents to get out of the cycle of poverty and racial oppression which result in social stress. Fontes (2002) suggests that professionals caring for these families may also work to bring about systemic changes for social justice.

When the GALs suspect child maltreatment, in addition to being mindful of the social stress, they need to be cognizant of the cultural differences child rearing practices (Fontes, 2002). For example, while spanking children with a stick or a broom may be considered as child abuse by the European American culture, leaving the infants to sleep on their own or male infant circumcision is perceived as abusive by many cultures. While the corporal punishment, defined as the use of physical force to inflict pain, may be seen as an acceptable form of discipline among some minorities, information about the frequency of such punishment, its intensity as well as the context would help the GALs in recognizing if there is physical abuse.

Cohen (2003) provides a check list of critical considerations when child welfare professionals work with diverse families. The following list is adapted from Cohen's frame work.

Critical considerations to sort cultural factors from harmful behaviors:

- What are the GAL's standards of norm for child rearing practices and how are they different from that of the child's family?
- Has a conflict occurred because of different child-rearing beliefs and behaviors?
- Are there any language barriers or religious differences that are affecting the GAL's interaction with the child and the family?
- Is the parenting leading to neglect, medical neglect, inadequate nutrition and supervision thus endangering the physical and mental health of the child?
- Are conditions related to safety, neglect, supervision and nutrition the result of poverty factors?
- Is substance use affecting the safety, physical and mental health, nutrition and education of the child?
- Have other caregivers, extended family members or teachers expressed concerns about the child's wellbeing?
- Does the child give indications of being affected by witnessing violence or experiencing psychological maltreatment?

Role of GAL in assessing behavior resulting from cultural differences

Bryant and Koh Peters (2001) identified five habits for cross-cultural lawyering based on the core principles that are necessary for lawyering: people are cultural beings and cultural competence is imperative for lawyering; open-mindedness; lawyers need to remain with the individual client, always respecting her dignity, voice and story. The five habits identified by Bryant and Koh Peters (2001) have been adapted for GALs' work practices with an additional sixth habit. These habits enable the GALs to effectively assess the behaviors arising from the differences in the cultural norms in the GAL-client-Law triad.

1. Identify how the similarities and differences between the GAL and the client's backgrounds may affect the GAL-client interaction. By identifying differences, GALs can become aware of potential misunderstandings or personal biases. By identifying similarities, GALs can recognize their connection with the clients. This process may enable the GALs to analyze the effect of similarities and differences on their functional responsibilities such as information gathering and analysis and presentation. By identifying similarities and differences GALs can explore the ways they connect with the clients and the ways they might judge, misunderstand or misinterpret clients.
2. Identify and analyze the similarities and differences of two different dyads: client-law and the lawyer-law. Make a list of the similarities and differences and compare the dyads with the lawyer-client dyad. The comparison will enable the GALs in assessing the credibility of the client's story; plan appropriate legal strategies; identify the agreements and disagreements with the cultural values and norms implicit in the law and how it applies to the client; analyze if the GAL is probing for clarity using all the three frames of reference: Client, GAL and the law.

3. The parallel universe habit enables the GALs to challenge themselves to identify many alternatives to the interpretations they may come up with, in the absence of sufficient information. This habit enables the GAL not to be judgmental about their client or family's behavior. For example, people working for minimum wage may not be able to spend time or have a flexible work schedule to meet with the GAL during the work day since they have to earn their living.
4. Be mindful of the communication and be on the alert for the red flags when interpreting the information.
5. Recognize that there are numerous factors that may adversely affect the GAL-client interaction. The GAL who proactively addresses these factors may prevent the interaction from reaching a breaking point.
6. Use the cultural asset paradigm: It is also critical that the GALs look at their client and their family from the cultural assets paradigm thus valuing the strengths of their cultural background. For example when working with a bilingual Latino child, the GAL can focus on their ability to speak two languages and the support of the community. Looking at the strengths of a different culture may help the GALs to build a trust-based relationship with the child and the family.

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